IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 8TH AUGUST 2007 / 17TH SRAVANA 1929

Crl.Rev.Pet.No. 248 of 2000()

CRA.44/1998 of SESSIONS COURT, THRISSUR
CC.209/1995 of JUDL. MAGISTRATE OF FIRST CLASS COURT-II, THRISSUR .

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REVN. PETITIONER: APPELLANT/ ACCUSED

SUNIL PRASAD, VALIYIL SUKUMARAN,
KAKKASSERY DESOM, ELAVALLY VILLAGE.

BY ADV. SRI.P.VIJAYA BHANU
SRI.S.R.MANOJ

RESPONDENT: RESPONDENT/ COMPLAINANT

STATE OF KERALA, REP.BY
PUBLIC PROSECUTOR, HIGH COURT
OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.SANTHOSHKUMAR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 08/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRL.RP. NO.248/2000

ORDER ON CRL.MP. NO.1498/2000 IN CRL.RP. NO.248/2000

DISMISSED

08.08.2007 **SD/- K.R.UDAYABHANU, JUDGE**

/TRUE COPY/

P.A. TO JUDGE

tss

K.R.UDAYABHANU, J.

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Crl.R.P.No.248 of 2000

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Dated this the 8th day of August, 2007

O R D E R

The revision petitioner stands convicted for the offences under Sections 279, 337 and 338 of the Indian Penal Code and sentenced to pay a fine of Rs.1,000/- and in default to undergo simple imprisonment for 15 days for the offence under Section 279 I.P.C., and to undergo simple imprisonment for two weeks and to pay a fine of Rs.1,000/- and in default to undergo simple imprisonment for 15 days for the offence under Section 338 I.P.C. No separate sentence was awarded for the offence under Section 337 I.P.C.

2. The prosecution case is that on 09/04/1995, at about 1.15 p.m., the accused drove the stage carriage bus through Kunnamkulam-Thrissur Road from west to east in a rash and negligent manner so as to endanger human life and happened to hit on a standing tree, as a result of which, PWs.1 and 2

sustained grievous injuries and CWs.3 to 9 simple injuries. The evidence adduced in the matter consisted of the testimony of PWs.1 to 14 and Exts.P1 to P13.

3. The defence version is that another bus that came from the rear side tried to overtake the bus driven by the accused, and that at that time, the accused happened to swerve the vehicle towards the left and it was on account of the sudden overtaking by the bus that came from the backside that caused the incident.

4. I find that the occurrence witnesses have testified as to the fact that the accused was driving the vehicle at a great speed. PW.1 has sustained fracture on her right leg and PW.2 sustained fracture on her left shoulder. I find that the prosecution has established that the vehicle had no mechanical defect as per the report of PW.9, the Motor Vehicle Inspector and the identity of the accused also stands established from the evidence of the witnesses. The injuries sustained by PWs.1 and 2 and others are proved from the evidence of PWs.7 and 12, the doctors and Exts.P2 to P8, P11 and P12 the wound certificates. In the

circumstances, I find no reason to interfere in the findings of the courts below. The conviction is confirmed.

5. The counsel for the revision petitioner has pleaded for leniency pointing out that the accused is the driver of a private bus, and that hails from very poor circumstances and that the sole income of the accused is the only means on which his entire family is depending and further, more than 12 years have elapsed since the commencement of the proceedings and that he has been facing the ordeal of the criminal proceedings so far.

In the above circumstances and considering the plea of the revision petitioner, the sentence imposed under Section 338 I.P.C is modified to imprisonment till the rising of the court and, to pay a compensation of rupees ten thousand to PW.1 and rupees five thousand to PW.2 under Section 357(3) Cr.P.C and in default to undergo simple imprisonment for one month each. No separate sentence is awarded for the offences under Sections 279 and 337 I.P.C. The revision petition is granted three months time to remit the amount of compensation. He shall appear

before the Judicial Magistrate of the First Class-II, Thrissur, on 05/11/2007 to receive the sentence.

The criminal revision petition is disposed of as above.

Sd/-
K.R.UDAYABHANU,
Judge

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K.R.UDAYABHANU, J.

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Crl.R.P.No.248 of 2000

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O R D E R

9th August, 2007